IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 24709 of 2004

Between:

Smt.S.Maremma, w/o S.Shadrak,
R/o Enugubala (V), Yemmiganur Mandal, Kurnool District.

..... PETITIONER

AND

1 The Joint Collector, Kurnool, Kurnool District.
2 The Revenue Divisional Officer, Adoni, Kurnool District.
3 The Mandal Revenue Officer, Yemmiganur, Kurnool District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 2nd respondent in issuing the proceedings in Rc.M.1218 of 2004 dated 17-12-2004 as illegal, arbitrary and violative of principles of natural justice and also against the provisions of Control Order 2001 and consequently direct the respondents herein to restore the authorisation of the petitioner by suspending the impugned proceedings pending the Appeal before the 1st respondent and pass such other order or orders.

Counsel for the Petitioner:MR.K.V.RAGHU VEER

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

Petitioner is a fair price shop dealer. Her authorization was suspended by the 2nd respondent through his order, dated 17.12.2004. Aggrieved thereby, petitioner preferred an appeal before the 1st respondent together with an application for stay. The 1st respondent is said to have rejected the application for stay. Petitioner feels aggrieved by the same.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

Petitioner was issued a Show-Cause Notice, dated 07.11.2004. It was alleged that the petitioner was distributing less quantities of PDS rice and kerosene and that she was collecting slightly higher prices more than the stipulated one's. On receipt of the same, petitioner submitted her explanation on 12.12.2004. On a consideration of the same, the 2nd respondent suspended the authorization of the petitioner. In the appeal preferred by the petitioner, she filed an application for stay, and it was rejected by the 1st respondent.

From a perusal of the order, dated 17.12.2004, passed by the 2nd respondent, it is evident that the authorization of the petitioner was suspended after conducting enquiry. Therefore, it has to be treated as a substantive punishment. Suspension, as a punishment, has to be for a specified period. There cannot be any indefinite

suspension, as a punishment. Further, the findings recorded by the 2nd respondent, *prima facie,* do not accord with the general principles of evidence. Petitioner flatly denied the allegations made against her. The 2nd respondent took the view that except denying, she did not place any material in support of her contentions. The question of an individual being required to prove a negative fact does not arise. The allegation against the petitioner could have been sustained only on the basis of specific instances.

For the foregoing reasons, the writ petition is allowed and the order of suspension passed against the petitioner shall stand stayed, till the disposal of the appeal by the 1st respondent. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Dated : 30th December, 2004

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To

1 The Joint Collector, Kurnool, Kurnool District.
2 The Revenue Divisional Officer, Adoni, Kurnool District.
3 The Mandal Revenue Officer, Yemmiganur, Kurnool District.

4 2 CCs to the Government Pleader for Civil Supplies, High Court Buildings, Hyderabad. (OUT)

5 2CD copies.